

## **REMARKS**

**[0001]** Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-4 and 7-57 are presently pending. Claims 1, 14-16, 18-30, 32-39, and 41-51 are being amended. Claims 5 and 6 are cancelled. Claims 52-57 are being added.

### **Statement of Substance of Interview**

**[0002]** The Examiner graciously talked with me—the undersigned representative for the Applicant—on December 15 and 16, 2008. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

**[0003]** During the interview, I discussed overcoming the statutory 35 U.S.C. 101 rejection as well as how the claims differed from the cited references, namely Subramanian and Ogier. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

**[0004]** The Examiner was receptive to the proposals, specifically amending claims 42 and 47 with a "tangible memory medium" or a similar limitation would overcome the 35 U.S.C. 101 rejection, as well as the limitations of "wherein the portion of the presentation comprises a succeeding sample to the at least one sample" and "wherein the portion comprises two or more samples," or similar limitations, would each individually overcome both the 35 U.S.C. 102 and 103 rejections. However, the Examiner indicated that she may need to review the cited

art more carefully and/or do another search, and requested that the proposed amendments be presented in writing.

**[0005]** Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

### **Formal Request for an Interview**

**[0006]** If the Examiner's reply to this communication is anything other than allowance of all pending claims and there only issues that remain are minor or formal matters, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

**[0007]** Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

## **Claim Amendments**

**[0008]** Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 14-16, 18-30, 32-39, and 41-51 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

**[0009]** Support for the new claims 52-57 as well as amendments to claims 1, 6, 14-16, 18-30, 32-39, and 41-51 may be found in the specification at least at in paragraphs [0043], [0044], [0046], [0048], [0065], and [0076]-[0079], among others.

## **Substantive Matters**

### **Claim Rejections under § 101**

[0010] Claims 42-51 are rejected under 35 U.S.C. § 101. Claims 42-51 have accordingly been amended with the statutory “tangible storage medium” per Examiner’s suggestion. Thus removal of the section 101 rejection of claims 42-51 is respectfully requested.

[0011] If the Examiner maintains the rejection of these claims, then Applicant requests additional guidance as to what is necessary to overcome the rejection.

### **Claim Rejections under § 102 and § 103**

[0012] Claims 1-51 are rejected under 35 U.S.C. § 102 and § 103. In light of the amendments presented herein and the decisions/agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0013] Specifically, the Examiner rejects claims 1-12, 15-19, 32-35, 37, 38, 40 and 42-46 under § 102. The Examiner rejects claims 13, 14, 20-31, 36, 39, 41 and 47-51 under § 103. For the reasons set forth below, the amended claims overcome these rejections.

[0014] Accordingly, Applicant respectfully requests that the § 102 and § 103 rejections be withdrawn and the case be passed along to issuance.

[0015] The Examiner's rejections are based upon the following references alone or in combination:

- **Subramanian:** *Subramanian, et al.*, US Patent Application Publication No. 2005/0018775 (published January 27, 2005); and
- **Ogier:** *Ogier*, US Patent Application Publication No. 2003/0095504 (published May 22, 2003).

### **Overview of the Application**

[0016] The Application describes a technology for various systems and methods that provide quality control for the processing of multimedia presentations. More particularly, various systems and methods described herein monitor the timing of the data samples of a multimedia presentation as the samples are processed in a multi-component pipeline. If the timing of one or more samples does not agree with prescribed timing of the media presentation, one or more of the components in the pipeline may be instructed to take some form of corrective action.

## **Cited References**

[0017] The Examiner cites Subramanian as the primary reference in the anticipation- and obviousness-based rejections. The Examiner cites Ogier as the secondary reference in the obviousness-based rejections.

### **Subramanian**

[0018] Subramanian describes a system and method for audio visual synchronization. The pictures are displayed by receiving an identifier, said identifier associated with a frame buffer storing a picture, extracting a presentation time stamp associated with the picture; wherein the picture is associated with a time stamp; comparing a local time clock value to the presentation time stamp; determining that the picture is mature for presentation if the presentation time stamp exceeds the local time clock value by less than a first predetermined threshold; and determining that the picture is mature for presentation if the local time clock value exceeds the presentation time stamp by less than a second predetermined threshold.

### **Ogier**

[0019] Ogier describes a protocol for discovering a new neighbor node and detecting the loss of an existing neighbor node in a network. A node receives a neighbor discovery message. This node periodically transmits a predetermined number of neighbor discovery messages in response. Each neighbor discovery

message includes an identity of the neighbor node. After transmitting the predetermined number of neighbor discovery messages, the node transmits messages that omit the identity of the neighbor node until another neighbor discovery message is received from the neighbor node that indicates a change in a communications state.

## **Anticipation Rejections**

[0020] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.<sup>1</sup> Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.<sup>2</sup>

### **Based upon Subramanian**

[0021] The Examiner rejects claims 1-12, 15-19, 32-35, 37, 38, 40 and 42-46 under 35 U.S.C. § 102(e) as being anticipated by Subramanian. See Office Action at 3-8. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

### **Independent Claim 1**

[0022] Applicant submits that Subramanian does not anticipate claim 1. Nevertheless, without conceding the propriety of the rejection and only to advance the prosecution of this application, Applicant amends independent claim 1, to clarify further features of the subject matter. Support for this amendment is

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<sup>1</sup> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

<sup>2</sup> See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).



found in the application as originally filed at least in paragraphs [0043], [0044], [0046], [0065], and [0076]-[0079], among others. These amendments introduce no new matter. Amended claim 1 now recites a method, comprising:

determining whether at least one sample of a presentation is processed by a first component of a pipeline at an expected time; and

requesting a second component of the pipeline to alter the manner in which the second component processes a portion of the presentation if the at least one sample is not processed at the expected time, wherein the portion of the presentation comprises a succeeding sample to the at least one sample.

**[0023]** Applicant submits that Subramanian does not anticipate this claim because it does not disclose at least the following features as recited in this claim (with emphasis added): "requesting a second component of the pipeline to alter the manner in which the second component processes a portion of the presentation if the at least one sample is not processed at the expected time, wherein the portion of the presentation comprises a succeeding sample to the at least one sample."

**[0024]** In contrast, Subramanian merely describes a video decoder time stamp management that is operable to drop "the B-picture 121 without encoding," but does not describe or show altering any succeeding B-pictures (if we were to assume that the B-picture of Subramanian and the sample of claim 1 were analogous, which they are not). *See* Subramanian at [0048-49]. In other words, Subramanian only deals with whether to encode or drop the current B-picture (i.e., the B-picture being examined) (*See* Subramanian at [0052-53]), whereas claim 1 is directed to altering "the manner in which the second component processes a

portion of the presentation,” where “the portion of the presentation comprises a succeeding sample to the at least one sample.”

[0025] Consequently, Subramanian does not disclose all of the elements and features of claim 1. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claim 16*

[0026] Nevertheless, without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant amends **dependent claim 16** to clarify further features of the subject matter. Support for this amendment is found at least in paragraphs [0043], [0044], [0046], [0048], [0065], and [0076]-[0079], among others, of the application as originally filed. Amended, dependent claim 16 recites the method of claim 1, wherein:

the portion of the presentation comprises a plurality of frames, wherein altering the manner in which the second component processes the portion of the presentation comprises dropping a subset of the plurality of frames, wherein the subset comprises two or more frames.

[0027] Applicant respectfully submits that claim 16 is allowable by virtue of its dependency from an allowable base claim, as well as for additional features not disclosed in Subramanian.

[0028] For example, Subramanian does not disclose “altering the manner in which the second component processes the portion of the presentation

comprises dropping a subset of the plurality of frames, wherein the subset comprises two or more frames." In contrast, Subramanian only teaches a video decoder time stamp management that is operable to drop "the B-picture 121 without encoding," but does not describe or show dropping more than one B-picture (if we were to assume that the B-picture of Subramanian and the sample of claims 1 and 16 were analogous, which they are not). *See* Subramanian at [0048-49]. In other words, Subramanian only deals with whether to encode or drop the single current B-picture (i.e., the B-picture being examined) (*See* Subramanian at [0052-53]), whereas claim 16 is directed to dropping a "subset of the plurality of frames," where "the subset comprises two or more frames."

**[0029]** Accordingly, claim 16 is additionally allowable because Subramanian fails to disclose each and every element recited in the claim.

*Independent Claims 20, 32, and 42*

**[0030]** Independent Claims 20, 32, and 42 include features similar to those recited by amended claim 1. Accordingly, claims 20, 32, and 42 are patentable over Subramanian for at least the same reasons as discussed in support of claim 1.

Dependent Claims 2-4, 7-19, 21-31, and 33-41, and 43-46

[0031] These claims ultimately depend upon independent claims 1, 20, 32, and 42. As discussed above, claims 1, 20, 32, and 42 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons, as argued above.

Independent Claim 47

[0032] Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant amends **independent claim 47** to clarify further features of the subject matter. Support for this amendment is found at least in paragraphs [0043], [0044], [0046], [0048], [0065], and [0076]-[0079], among others, of the application as originally filed. Amended, independent claim 47 recites a tangible storage medium having stored thereon processor executable instructions for performing acts comprising:

determining timing information associated with at least two samples of a presentation processed by a first component in a pipeline;

determining if the sample timing is degrading by comparing the timing information associated with the at least two samples to a presentation clock associated with the presentation; and

instructing at least one component in the pipeline to alter a manner in which the at least one component processes a portion of the presentation if the sample time is degrading, wherein the portion comprises two or more samples.

**[0033]** Subramanian does not disclose "instructing at least one component in the pipeline to alter a manner in which the at least one component processes a portion of the presentation if the sample time is degrading, wherein the portion comprises two or more samples." In contrast, Subramanian only teaches a video decoder time stamp management that is operable to drop "the B-picture 121 without encoding," but does not describe or show dropping more than one B-picture (if we were to assume that the B-picture of Subramanian and the sample of claims 1 and 16 were analogous, which they are not). See Subramanian at [0048-49]. In other words, Subramanian only deals with whether to encode or drop the single current B-picture (i.e., the B-picture being examined) (See Subramanian at [0052-53]), whereas claim 47 is directed to dropping a "portion of the presentation," where "the portion comprises two or more samples."

**[0034]** Consequently, Subramanian does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

#### *Dependent Claims 48-51*

These claims ultimately depend upon independent claim 47. As discussed above, claim 47 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

## **Obviousness Rejections**

### **Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)**

[0035] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

### **Based upon Subramanian**

[0036] The Examiner rejects claims 13, 14, 20-31, 36, 39, and 47-51 under 35 U.S.C. § 103(a) as being unpatentable over Subramanian in view of Ogier. See Office Action at 9-16. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

### **Independent Claim 20**

[0037] Applicant submits that the combination of Subramanian or Ogier does not teach or suggest claim 20. Nevertheless, without conceding the propriety of the rejection and only to advance the prosecution of this application, Applicant amends independent claim 20 to clarify further features of the subject matter. Support for this amendment is found in the application as originally filed at least in paragraphs [0043], [0044], [0046], [0065], and [0076]-[0079], among others. These amendments introduce no new matter. Amended claim 20 now recites a method, comprising:

determining if timeliness of sample processing in a multi-component pipeline is degrading, the determination being made based on processing times of a first sample and a second sample of a presentation;

altering the manner in which a component in the multi-component pipeline processes a portion of the presentation if the timeliness of the sample processing is said determined to be degrading, wherein the portion comprises one or more succeeding samples to one or more of the first sample and the second sample.

[0038] Applicant submits that Subramanian or Ogier, taken singly or in combination, do not teach or suggest this claim because it does not disclose at least the following features as recited in this claim (with emphasis added): "requesting a second component of the pipeline to alter the manner in which the second component processes a portion of the presentation if the at least one sample is not processed at the expected time, wherein the portion of the presentation comprises a succeeding sample to the at least one sample."

[0039] In contrast, Subramanian merely describes a video decoder time stamp management that is operable to drop "the B-picture 121 without encoding," but does not describe or show altering any succeeding B-pictures (if we were to assume that the B-picture of Subramanian and the sample of claim 1 were analogous, which they are not). See Subramanian at [0048-49]. In other words, Subramanian only deals with whether to encode or drop the current B-picture (i.e., the B-picture being examined) (See Subramanian at [0052-53]), whereas claim 1 is directed to altering "the manner in which the second component processes a portion of the presentation," where "the portion of the presentation comprises a succeeding sample to the at least one sample."

[0040] Furthermore, Ogier does not teach or suggest any of the aforementioned elements, and the Office Action does not allege that it does either.

[0041] As shown above, the combination of Subramanian and Ogier does not teach or suggest all of the elements and features of this claim. Also, there is no reason to combine the teachings of the references. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

#### Dependent Claims 21-31

[0042] These claims ultimately depend upon independent claim 20. As discussed above, claim 20 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

#### Independent Claim 47

[0043] Applicant submits that the combination of Subramanian or Ogier does not teach or suggest claim 47. Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant amends **independent claim 47** to clarify further features of the subject matter. Support for this amendment is found at least in paragraphs [0043], [0044], [0046], [0048], [0065], and [0076]-[0079], among others, of the application as



originally filed. Amended, independent claim 47 recites a tangible storage medium having stored thereon processor executable instructions for performing acts comprising:

determining timing information associated with at least two samples of a presentation processed by a first component in a pipeline;

determining if the sample timing is degrading by comparing the timing information associated with the at least two samples to a presentation clock associated with the presentation; and

instructing at least one component in the pipeline to alter a ~~than~~ manner in which the at least one component processes a portion of the presentation if the sample time is degrading, wherein the portion comprises two or more samples.

**[0044]** Applicant submits that Subramanian or Ogier, taken singly or in combination, do not teach or suggest “instructing at least one component in the pipeline to alter a manner in which the at least one component processes a portion of the presentation if the sample time is degrading, wherein the portion comprises two or more samples.” In contrast, Subramanian only teaches a video decoder time stamp management that is operable to drop “the B-picture 121 without encoding,” but does not describe or show dropping more than one B-picture (if we were to assume that the B-picture of Subramanian and the sample of claims 1 and 16 were analogous, which they are not). See Subramanian at [0048-49]. In other words, Subramanian only deals with whether to encode or drop the single current B-picture (i.e., the B-picture being examined) (See Subramanian at [0052-53]), whereas claim 47 is directed to dropping a “portion of the presentation,” where “the portion comprises two or more samples.”

**[0045]** Furthermore, Ogier does not teach or suggest any of the aforementioned elements, and the Office Action does not allege that it does either.

**[0046]** As shown above, the combination of Subramanian and Ogier does not teach or suggest all of the elements and features of this claim. Also, there is no reason to combine the teachings of the references. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

### Dependent Claims 48-51

**[0047]** These claims ultimately depend upon independent claim 47. As discussed above, claim 47 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

### **New Claims**

#### Dependent Claims 52-57

**[0048]** Applicant adds dependent claims 52-57 to further clarify features of the claimed subject matter. These claims ultimately depend upon independent claims 1 and 20 respectively. As discussed above, both claims 1 and 20 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

## **Conclusion**

[0049] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call or email me at your convenience.

Respectfully Submitted,

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